

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q76049
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed
	10/685,407	October 16, 2003
	First Named Inventor	
	Hyungyoo YOOK	
	Art Unit	Examiner
	2191	Qing CHEN
<p style="text-align: center;">WASHINGTON OFFICE 23373 CUSTOMER NUMBER</p>		
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number 55,154</p> <p style="text-align: right;">_____/David P. Emery/ Signature</p> <p style="text-align: right;">_____ David P. Emery Typed or printed name</p> <p style="text-align: right;">_____(202) 293-7060 Telephone number</p> <p style="text-align: right;">_____ March 18, 2010 Date</p>		

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q76049

Hyungyoo YOOK

Appln. No.: 10/685,407

Group Art Unit: 2191

Confirmation No.: 7867

Examiner: Qing CHEN

Filed: October 16, 2003

For: SYSTEM AND METHOD FOR MANAGING AN APPLICATION OR SOFTWARE COMPONENT FOR USE IN A DEVICE TO BE CONTROLLED IN A HOME NETWORK

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Further to the Examiner's Final Office Action dated November 2, 2009, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 9-14 and 16 are pending in the application and stand rejected.

Claim Objections

The Examiner objected to claim 16 for suggesting that the term "the new application" be changed to read "the new application file."

In response, Applicant submits the amendment claim 16 submitted on January 4, 2010 obviates this objection.

Claim Rejections - 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claim 16 as being indefinite for failing to particularly point out and distinctly claim the invention.

Applicant submits the amendment to claim 16 submitted on January 4, 2010 obviates this rejection.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 9, 10, 12-14 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Davies (US 2002/0073244) and Moonen (WO 02/09350).

Independent Claim 9

Applicant respectfully submits that Davies and Moonen fail to disclose, “wherein **each of the plurality of controlled devices includes** a home network middleware module for communicating with the application server, and an application management module for installing a new application or managing an already installed application by controlling the application server.”

The Examiner’s basis for the rejection is as follows:

(1) Davies discloses “a plurality of controlled devices . . . wherein each of the plurality of controlled devices includes a home network middleware module for communicating with the application server.” Office Action, p. 13. However, the Examiner concedes Davies fails to disclose wherein each of the plurality of controlled devices includes an application management module for installing a new application or managing an already installed application by controlling the application server. *See* Office Action, p. 5.

(2) Moonen is relied on as teaching “**a bridge device including an application module for installing a new application** or managing an already installed application by controlling the application server.” Office Action, p. 13.

As a rationale for modifying Davies the Examiner alleges it would have been obvious for one of ordinary skill to include the application management module of Moonen in Davies controlled devices in order to automate the installations of application files downloaded from a central server so the user does not have to manually perform the installations. *See* Office Action, p. 14.

The crux of Applicant’s argument is that even if Moonen teaches such an application module, it does not teach of including one of the application modules **on each of the plurality of controlled devices**. Rather, Moonen only teaches of using the disclosed “installation manager 122” on bridge 118, **not** each controlled device. In fact, Moonen actually suggests using this installation manager 118 one of the plurality of controlled devices. Accordingly, the Examiner’s contention is contradicted by the exact reference relied on as disclosing the recited “application module.”

Accordingly, Applicant continues to submit the Examiner has failed to establish *prima facie* obviousness. Specifically, while Davies may disclose a controlled device containing various software modules, this in no way provides a reason to include all software modules on the controlled device. Rather, the particular function of the particular software module must be taken into consideration.

Notably, as set forth above, the Examiner relies on installation manager 122 from Moonen as corresponding to the recited “application management module.” However, this installation manager 122 is not installed on a plurality of controlled devices. Specifically, Moonen discloses that this installation manager 122 is located on a bridge 118, which is not one of the plurality of controlled devices, i.e., device A1 104, device A2 106, device A3 108, device B 112, etc. In other words, this installation manager is located on a bridge 118, which hosts translation modules for communicating between each of the plurality of devices. *See* Moonen FIG. 1. In this regard, the installation manager 122 handles the installations of software components needed to integrate a new device (device B 116) into the system 100 when new device B 116 is added.

Moreover, Moonen itself includes a plurality of controlled devices, yet fails to disclose including the installation manager 122 on more than one device. **Accordingly, the Examiner’s rationale to combine contrasts with the exact reference relied on for the modification.**

Thus, as there is no reason to include the installation manager 122 on a controlled device, the Examiner’s rationale to combine fails. Therefore, the Examiner has failed to establish *prima facie* obviousness.

Thus, even if Davies and Moonen could be combined as suggested by the Examiner, the suggested combination fails to disclose all the features recited in claim 9.

Therefore, claim 9 is allowable for at least this reason. Additionally, claims 10-14 and 16 are allowable, at least by virtue of their dependency.

Claim Rejections - 35 U.S.C. § 103(a)

Claim 11 stand rejected as being unpatentable over Davies and Moonen, in further view of Motoyama (US 7,058,719).

Because Motoyama fails to compensate for the above noted deficiencies of Davis and Moonen, Applicant submits claim 11 is allowable, by virtue of their dependency from claim 9.

Respectfully submitted,

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